

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)
) File No. 20-cr-181
) (PJS/BRT)
Plaintiff,)
)
v.) Minneapolis, Minnesota
) May 4, 2021
Branden Michael Wolfe,) 9:00 a.m.
)
Defendant.)

BEFORE THE HONORABLE PATRICK J. SCHILTZ
UNITED STATES DISTRICT COURT JUDGE
(SENTENCING)

APPEARANCES

For the Plaintiff:

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Proceedings recorded by mechanical stenography;
transcript produced by computer.

P R O C E E D I N G S

I N O P E N C O U R T

THE COURTROOM DEPUTY: All rise. United States District Court for the District of Minnesota is now in session, the Honorable Patrick J. Schiltz presiding.

THE COURT: Good morning. Please be seated.

We are here this morning for sentencing in the case of United States of America v. Branden Michael Wolfe. The case is Criminal No. 20-0181.

If I could have the attorneys make their appearances, please, beginning with the prosecutors.

MR. JACOBS: Harry Jacobs on behalf of the United States. Good morning, Your Honor.

THE COURT: Good morning, Mr. Jacobs.

MR. STEINKAMP: Good morning, Your Honor. David Steinkamp also on behalf of the United States.

THE COURT: Good morning, Mr. Steinkamp.

MR. OLSON: And Doug Olson with the Defender's Office on behalf of Mr. Wolfe, who is present and with me here today.

THE COURT: And good morning to both of you.

Mr. Wolfe previously pled guilty to conspiracy to commit arson.

Mr. Jacobs, has the government received a copy of the PSR and the addendum?

1 MR. JACOBS: We have, Your Honor.

2 THE COURT: And you have no objections; is that
3 correct?

4 MR. JACOBS: No objections, Your Honor.

5 THE COURT: All right. Mr. Olson, have you and
6 your client received copies of the PSR and the addendum?

7 MR. OLSON: Yes, Your Honor.

8 THE COURT: And have you read and discussed those
9 documents?

10 MR. OLSON: Yes.

11 THE COURT: And you, too, have no objections; is
12 that correct?

13 MR. OLSON: That's correct.

14 THE COURT: All right. I adopt as the findings of
15 this Court all of the factual statements in the PSR.

16 In terms of sealed documents, Mr. Olson, I think
17 we've just got the letters that were submitted by and on
18 behalf of Mr. Wolfe. I didn't see anything particularly
19 sensitive in those letters. It's very similar to the
20 position paper that you filed. Is there any reason we have
21 to keep those sealed?

22 MR. OLSON: I'd ask that they be sealed. I get a
23 little bit concerned about the press printing a mother's
24 letter and/or his personal letter to the Court.

25 THE COURT: How about if I seal them for five

1 years to get them past the time when anybody would be
2 interested in them?

3 MR. OLSON: That would be fine, Your Honor.

4 THE COURT: That's what we'll do, then. We'll
5 seal those for five years.

6 Next is the issue of restitution, which I want to
7 address. I've read the parties' briefs on restitution. Is
8 there anything that anybody wants to add to what's in the
9 written papers? Mr. Olson, did you want to say anything
10 more on the issue of restitution? If you want to stay
11 seated, Mr. Olson, that's fine given the --

12 MR. OLSON: Just getting back to being a lawyer
13 again.

14 THE COURT: Well, I'm getting back to being a
15 judge. I get that.

16 MR. OLSON: Nothing further than what I submitted.
17 I mean, the Court made a ruling last week and I understand
18 that, so I had not addressed the issue so I did set forth my
19 simple position, which I think is kind of almost
20 self-sufficient statement in the restitution pleading I
21 filed on Friday, and I'll rely on that.

22 THE COURT: All right. And we did, obviously,
23 spend a lot of time researching and looking at this issue.
24 I might be wrong about it, but you've preserved your rights
25 on it and I'll explain my view.

1 MR. OLSON: Which is all I was intending.

2 THE COURT: I understand.

3 Mr. Jacobs, anything you wanted to say on the
4 issue of restitution?

5 MR. JACOBS: No, Your Honor.

6 THE COURT: Okay. Let me just dictate a ruling on
7 restitution so that the record in this case is complete.

8 The parties have agreed that the mandatory Victims
9 Restitution Act, 18 U.S.C. Section 3663, applies and that
10 the loss amount to the victim of Mr. Wolfe's crime, which is
11 the City of Minneapolis, is \$12 million. Mr. Wolfe
12 contends, however, that he should be required to pay just
13 1/1000th of that amount, or \$12,000, in restitution.

14 Mr. Wolfe reasons that because his involvement in
15 the destruction of the Third Precinct was limited to pushing
16 a wooden barrel into an existing fire and because he did not
17 start any fires himself, ordering restitution in the amount
18 of \$12,000 would be "fair and proportionate" under the
19 circumstances. In support of his argument, Mr. Wolfe cites
20 *Paroline v. United States*, 572 U.S. 434, a child-pornography
21 case in which the Supreme Court held that "restitution is...
22 proper under 18 U.S.C. Section 2259 only to the extent the
23 defendant's offense proximately caused a victim's losses."
24 In this case, Mr. Wolfe argues the losses "proximately
25 caused" by his actions were "minimal, as should the losses

1 attributed to him for restitution purposes."

2 I do not agree with Mr. Wolfe's argument.

3 I'm required by 18 U.S.C. Section 3664(f)(1)(A) to
4 "order restitution to each victim in the full amount of each
5 victim's losses as determined by the court and without
6 consideration of the economic circumstances of the
7 defendant." Section 3664(h) provides that courts have
8 discretion to either "make each defendant liable for payment
9 of the full amount of restitution" or "apportion liability
10 among the defendants to reflect the level of contribution to
11 the victim's loss and economic circumstances of each
12 defendant." But a court may not award less than the full
13 amount of the loss caused by the offense of conviction.

14 Mr. Wolfe argues that under *Paroline*, the Court
15 can disregard the statutory mandate and instead order
16 restitution commensurate with his limited role in the
17 conspiracy. I do not agree with his interpretation of
18 *Paroline*.

19 *Paroline* concerned the question of how to order
20 restitution in the case of a defendant convicted of
21 possession of child pornography. The issue was difficult
22 because of what the Supreme Court called the "somewhat
23 atypical causal process underlying the losses" to the
24 victims of child pornography. The defendant in *Paroline* was
25 one of thousands -- probably tens or hundreds of thousands

1 -- of people who viewed the images of the victim. Thousands
2 of people viewed those images before the defendant, and
3 thousands would view those images after the defendant, as
4 they would be available on the internet forever.

5 On the one hand, the fact that many thousands of
6 people had viewed and would continue to view images of the
7 victim's sexual abuse caused her grievous and ongoing harm.
8 On the other hand, the fact that a particular defendant
9 viewed images of the victim's sexual abuse did not cause her
10 any marginal harm. In other words, the amount of harm
11 caused by the victim's knowledge that people were looking at
12 the images would be exactly the same whether the number of
13 viewers was 99,999 or 100,000 or 100,001.

14 In light of the "atypical causal process" between
15 the crime of possession of child pornography and the harm it
16 causes to victims, the Supreme Court said the following:

17 "In this special context, where it can be
18 shown both that a defendant possessed a
19 victim's images and that a victim has
20 outstanding losses caused by the continuing
21 traffic in those images but where it is
22 impossible to trace a particular amount of
23 those losses to the individual defendant by
24 recourse to a more traditional inquiry, a
25 court applying 18 U.S.C. Section 2259 should

1 order restitution in an amount that comports
2 with the defendant's relative role in the
3 causal process that underlies the victim's
4 general losses."

5 For several reasons, I do not agree with Mr. Wolfe
6 that, under *Paroline*, he should not be held liable for more
7 than \$12,000 to the City of Minneapolis.

8 First, the Supreme Court explicitly confined its
9 holding in *Paroline* to the "special context" of
10 child-pornography offenses. The harm caused by arson is
11 nothing like the harm caused by possession of child
12 pornography. The damage caused by an arsonist is not
13 ongoing, it does not grow over time as additional arsonists
14 continuously contribute to the total loss suffered by the
15 victim. Rather, the fire is extinguished and a fixed loss
16 amount is calculated. The damage caused when multiple
17 people join together to burn a building is not the type of
18 "atypical causal process" with which *Paroline* was concerned.
19 Rather, the damage caused when multiple people joined
20 together to burn a building is like the damage caused when
21 multiple people join together to rob a bank or defraud an
22 insurance company. In such cases, the defendants are almost
23 always held jointly and severally liable for the full amount
24 of the victim's losses, even though the victim's losses
25 would have been the same if any one defendant had not

1 participated in the crime, and even if not all the
2 perpetrators have been identified.

3 Second, although the PSR suggests that there may
4 have been 1,000 or more people gathered outside of the Third
5 Precinct on the evening of May 28th, 2020, that does not
6 mean that all 1,000 protestors participated in the burning
7 of the Third Precinct. To the contrary, many people in that
8 crowd were urging the mob of which Mr. Wolfe was a part to
9 remain peaceful and not to attack the building. Thus,
10 Mr. Wolfe was not like Doyle Paroline and other possessors
11 of child pornography, one of many thousands of perpetrators
12 causing harm to a single victim.

13 And, finally, Mr. Wolfe overlooks the fact he has
14 been convicted of *conspiracy* to commit arson. The
15 conspiracy of which Mr. Wolfe was a member included not just
16 him and not just his three indicted co-conspirators; rather,
17 it included all of those -- indicted and unindicted -- who
18 conspired to burn the Third Precinct. As the Ninth Circuit
19 explained in *United States v. Grovo*, 826 F.3d 1207,

20 "Paroline did not abrogate the longstanding
21 rule that a defendant convicted of a
22 conspiracy is liable for restitution for not
23 only those harms resulting from the
24 defendant's individual actions, but also
25 others caused by the conspiracy itself.

1 Indeed, *Paroline* expressly distinguished cases
2 in which wrongdoers act in concert with each
3 other, and derived its proximate causation
4 rule from a statutory provision requiring
5 restitution for any losses suffered by the
6 victim as a proximate result of the offense.
7 When the offense is conspiracy, *Paroline*
8 requires restitution for any losses
9 proximately caused by the conspiracy -- not
10 those caused by the individual defendant."

11 For these reasons, I'm not persuaded by
12 Mr. Wolfe's argument that he should be required to pay only
13 \$12,000 in restitution to the City of Minneapolis. Instead,
14 I will order him to pay the full amount of the City's loss.
15 I've already ordered that Dylan Robinson be held jointly and
16 severally liable for that amount, and I will likely order
17 that Mr. Wolfe's other co-defendants be held jointly and
18 severally liable as well. Of course, I recognize that,
19 unless Mr. Wolfe wins the lottery, he will end up paying
20 only a tiny fraction of that loss.

21 All right. Mr. Jacobs, do you want to move for
22 the additional one-level reduction for acceptance?

23 MR. JACOBS: We do, Your Honor.

24 THE COURT: That motion is granted, and I
25 determine the guidelines apply as follows: The total

1 offense level is 21. The criminal-history category is II
2 with three points. The imprisonment range recommended is
3 between 41 months and 51 months in prison. The supervised
4 release range recommended is 1 to 3 years. The fine range
5 15,000 to \$150,000. And the special assessment \$100.

6 Mr. Jacobs, does that sound correct to you?

7 MR. JACOBS: It does, Your Honor.

8 THE COURT: And Mr. Olson?

9 MR. OLSON: Yes, Your Honor.

10 THE COURT: My understanding is that neither side
11 is moving for a departure under the guidelines. I do
12 understand that the defendant is seeking a variance under
13 3553(a). Is that correct on the government's side,
14 Mr. Jacobs?

15 MR. JACOBS: Yes, Your Honor.

16 THE COURT: And, Mr. Olson, on your side?

17 MR. OLSON: That's correct.

18 THE COURT: Okay. Mr. Olson, let me then invite
19 you to say whatever you would like on behalf of Mr. Wolfe.
20 If you want to come to the podium for this, that's fine with
21 me.

22 MR. OLSON: Does my mask stay on?

23 THE COURT: Are you fully vaccinated?

24 MR. OLSON: Yes.

25 THE COURT: Then you can take your mask off.

1 MR. OLSON: Thank you.

2 THE COURT: Not a question that I had asked people
3 for the first 15 years of my career, but --

4 MR. OLSON: Not a question I ever asked a judge,
5 if I could take my mask off. Good to see everybody. Good
6 to be back.

7 As to Mr. Wolfe, you know, I'm not going to give a
8 big speech here. I've submitted a position paper outlining
9 a lot of the circumstances surrounding Mr. Wolfe -- his
10 background, his involvement in this offense, and what my
11 recommendation was for sentencing. But I'm not going to
12 spend a lot of time just rehashing that. The Court knows my
13 position. I may alter that a little bit as we go forward
14 here.

15 But what I do want to say about Mr. Wolfe and what
16 I want the Court -- and I think the Court can sincerely
17 understand this -- is that he certainly has had his
18 difficulties, and he sincerely suffers from a form of mental
19 illness -- bipolar disorder, which we used to call manic
20 depressive.

21 And, you know, when I first saw him as a client,
22 and which was only a few days after he was arrested and he'd
23 become in the federal custody, I mean, I'm talking about
24 somebody that was in a full manic phase. And you could kind
25 of see the thought process, the scatter-brainedness of the

1 difficulty he had focusing on things and how it was driving
2 his thinking and how it had driven his behaviors in the
3 past. And I'll get back to that in a little bit, but if you
4 look at what -- his form of mental illness, which goes back
5 -- it may go back to a brain injury at his birth, but he's
6 had troubles throughout his childhood and all of his life in
7 the form of some forms of mental illness, which have made
8 him different. He's felt different, and he has been
9 different, and it's affected his behaviors particularly --
10 if you look at these couple of years, he quits -- he quits
11 high school. He quits home-schooling; I'll just leave that
12 alone. And he starts wandering around the country basically
13 following one and then another girlfriend around in what now
14 I can recognize, and I think he recognizes, in a bit of
15 manic disorder and just complete and utter chaos without
16 really a goal or a purpose in life, other than kind of
17 following the next thing -- the next energy that presents
18 itself, the next circumstance, ultimately leading into a
19 bizarre trail that just lands him in Minnesota by
20 happenstance one day. And here he's been for the last few
21 years dealing with homelessness. His life is characterized
22 by homelessness and living in shelters. And that was the
23 life that he had -- that's the life that he was dealing
24 with.

25 And I think that you don't have to be well-versed

1 in psychiatry to see you have somebody who has some pretty
2 significant mental-health issues going on in his life,
3 inability to kind of focus and control and do what other
4 people would view as more normalized behaviors.

5 But going forward, in the aftermath of his -- and
6 I'll talk about the offense a little bit later on, but
7 that's not really my focus here. In the aftermath of him
8 getting arrested and me talking with him and getting to know
9 him as a person, you know, he knew that he was troubled. I
10 mean, he has had enough interaction with mental-health
11 problems, and growing up particularly, that he knew that he
12 needed help and direction. I mean, he had previously been
13 committed, I think, for a short term about a year previously
14 at the University of Minnesota. So he knew he had problems.

15 He reached out to the jail staff about his racing
16 mind, his problems, and his mental-health issues. He
17 couldn't sleep, and he couldn't focus. I give the jail a
18 lot of credit. And I'm not a guy that gives the jail a lot
19 of credit, because I've had nothing but problems with jail
20 for most of my career, particularly dealing with undiagnosed
21 mental-health issues, because they usually just -- well,
22 that's just part of the problem. But they helped him, and
23 they helped him quite a bit. They put him on medication.

24 And I could see the results within a week or two
25 about how it had changed him and affected him. And he

1 started working on his own self-help with the medication
2 trying to get a regular -- just a regular -- things that we
3 take for granted -- sleeping a regular night's sleep,
4 getting up in the morning, exercising, eating regularly.
5 All of these things were significant life-changing events
6 for him given his previous history. And he started kind of
7 putting his mind back into some kind of framework of order
8 and including dealing with this offense.

9 You know, when he was interviewed, you know, he
10 was interviewed right away by the St. Paul police and the
11 ATF; quite an engaging young man. And he was more than
12 willing to talk. He was quite honest and open about
13 everything. They asked him about it. They showed him his
14 picture at the bureau, and he said, well, I picked that up
15 and put it there. That's the arson here. They came back
16 and talked with him; very polite, you know. And I'm quite
17 sure that if you asked the ATF people they would acknowledge
18 the same -- the manic, scatter-brained, flow of
19 consciousness thinking that we were dealing with here.

20 But as things progressed, you know, he got better
21 with the medication, he started focusing in. And then we
22 got him released to the halfway house, he finally got to go
23 see -- a formal counselor got involved and he got to see a
24 psychiatrist. The psychiatrist then changed and put him on
25 the appropriate anti-psychotic bipolar medications. He

1 started in on therapy. And that has been a godsend to him,
2 and it's changed him. It's changed and altered the course
3 of his life.

4 And most recently, the last couple months, he's
5 been doing chemical dependency treatment as well, all of
6 which has been positive and helpful for him.

7 So the person that the Court sees here is very
8 much different than the person that was standing on that
9 building out there with his boom box, waving his hand,
10 jumped down from a concrete flag poll and pushed a barrel
11 towards the fire.

12 He's remorseful. He is embarrassed about what he
13 did. He's ashamed of himself. The Court said, yeah, there
14 were a thousand people there but not everybody -- he knows
15 he was on the wrong side of all of that. It was wrong
16 behavior. He recognizes it. He's sorry for what he did.
17 And the things he said both in his letter to the Court and
18 his acceptance of responsibility are sincere and heartfelt.

19 I was just talking with him. I've spent an
20 enormous amount of time with him in part because he needed
21 it, in part because I think that it was good for him. And I
22 wanted to make sure that I could figure out what was going
23 on with him and share his story accurately. But he's
24 thankful that he got the help that he needs. It's too bad
25 that it took this to get there. So he is very thankful

1 about the opportunities he has had.

2 He's ashamed and sorry for what he did. And he
3 views his future differently because he can see some
4 purpose, he can see some hope, and he sees some long-term
5 optimism coming out of all this given that he is in a much
6 better mental state in terms of dealing with the world and
7 dealing with the chaos in his mind.

8 Now, everything hasn't been all smooth and dandy
9 with him. I mean, he's had nothing but rules violations at
10 the halfway house. We'll get to that later. But life isn't
11 particularly simple or easy for him on a lot of levels. But
12 the point of all this is that he's doing much better, he's
13 in a much better position now that he's being treated for
14 his bipolar disorder in therapy and learning how to do that.

15 And he recognizes that this is a lifetime struggle
16 he is going to have. Life isn't going to be easy for him.
17 He's going to have to take medication the rest of his life.
18 He knows that. He is going to have to engage himself in
19 therapy and counseling maybe the rest of his life, but it's
20 going to be an ongoing thing. He is only less than a year
21 into dealing with all this. This takes years to get there.
22 But he is working on it hard. And he really does mean well,
23 and he's sincere in the things that he says. And when he
24 says that he is thankful for the intervention in his life,
25 he means it. And it's not just something that he's throwing

1 out there to try and get a better sentence.

2 Now, as to sentencing -- and I've set forth my
3 position about a probationary sentence and not sending him
4 and people like him to prison, but I'm not going to harp on
5 that. I think the Court can decide what it needs to do
6 here. And I would suggest, though, that maybe the Court can
7 move the guideline numbers down a bit. I suggest that
8 there's nothing to be served in this case by a sentence that
9 was -- 24 months would do everything that a sentence 42
10 months would serve, which is what the government is asking
11 if the Court is rejecting my position on a probationary-type
12 sentence.

13 I think that there is some question of
14 proportionality in terms of what he actually did here in
15 pushing of the barrel, his lack of preplanning, and lack of
16 actually starting the fire, and all these kinds of things
17 I've kind of laid out there. But that's not really what I
18 stood up here to talk about.

19 I just wanted to say on his behalf that whatever
20 happens here, he's never whined about it. He's been
21 responsible from day one. The ATF agents were happy. They
22 went and talked with him. They came back and they talked
23 with him several times. They were happy with him. The
24 government was happy. He worked out a deal right away, I
25 think the first of all the people that might have pled

1 later, but we worked out a deal right away. He was very
2 cooperative with everybody. He has not ever dodged his own
3 responsibility for what he did that night and his
4 participation in that whole affair was wrong. He knows it,
5 and he has owned up to it.

6 I think that going forward here he will be able to
7 eventually adjust to a normal life. He will take his
8 medication. He will engage in counseling. He will continue
9 to work on the things that he needs to. Like I said, he's
10 only nine months into that lifetime journey, but he's in a
11 much, much better position and state of mind here today than
12 he was when he committed this offense nearly a year ago.

13 So I'd ask the Court to take all that into
14 consideration, treat him with some compassion, think about
15 those things. And if the Court rejects my probationary
16 request, consider whittling down the government's 42-month
17 request a bit on his behalf.

18 Thank you.

19 THE COURT: Thank you, Mr. Olson.

20 Mr. Wolfe, did you want to say anything this
21 morning?

22 THE DEFENDANT: Your Honor, the only thing I can
23 really say is that my letter doesn't really reflect -- words
24 -- the downside of words is that they never on paper can
25 reflect what the heart and mind truly feel.

1 And just yesterday I actually was speaking to my
2 treatment counselor about how in the beginning I deflected
3 accountability for my actions citing that I was intoxicated
4 and, you know, it was a split-second decision. And I
5 realized that even though I was saying, okay, yes, I made
6 that choice, I was still deflecting the accountability.
7 And, you know, I just realized that yesterday, after nine or
8 ten months after the event. But with that, I'm excited and
9 I'm looking forward to the ability to actually start working
10 on that process of learning to truly take accountability for
11 my actions.

12 You know, I respect any decision that this Court
13 makes. And I just -- I really look forward to whether term
14 of imprisonment -- when I get out, and during that time just
15 focusing on really bettering myself so I can be a better
16 person for society and just for myself in general.

17 I do have a three-year-old daughter, and I accept
18 the fact that due to my actions, I will probably never have
19 a close bond with her until she's an adult. And I don't
20 want to be 18 years from now her seeing me as a man that
21 never did anything with himself, that never got himself
22 together, that just kept following the same path that he has
23 been that caused me to lose the opportunity to raise her.
24 And that is my biggest motivation to really better myself as
25 a person so that I can say, Hey, Alana, I made really bad

1 choices, I went down a really bad path, and I neglected a
2 lot of things, including you. But since then I've learned
3 how to take accountability and to really work on being
4 better and making a better life for myself. And that is
5 really all that I can say, Your Honor.

6 THE COURT: All right. Thank you, Mr. Wolfe.

7 THE DEFENDANT: Thank you.

8 THE COURT: Mr. Jacobs, I understand you have a
9 couple people here that would like to address the Court as
10 well. They can do it before you or after you, however they
11 want to do this.

12 MR. JACOBS: Your Honor, I will let them speak
13 before me if that's --

14 THE COURT: All right.

15 Good morning. If I could have you just state your
16 initials so we can identify you on the record in that way,
17 and I'd be happy to hear anything you have to say.

18 VICTIM WITNESS CN: CN.

19 THE COURT: All right.

20 VICTIM WITNESS CN: And I have been fully
21 vaccinated so can I remove the mask?

22 THE COURT: Yes.

23 VICTIM WITNESS CN: Thank you.

24 Honorable Judge Schiltz, for the past 25 years I
25 have worked as a civilian employee for the Minneapolis

1 Police Department. I have had the privilege of being
2 assigned to the Third Precinct for over half of those years.

3 The entire neighborhood that is served by the
4 Third Precinct is affectionately called the south side of
5 Minneapolis. The Third Precinct was not just a public
6 service building but an integral part of our community.

7 It's difficult to use past tense words like was,
8 as it implies that the building is dead and I know
9 metaphorically it is. Like a young adult dying too soon,
10 the building was only about 35 years old. It is now a
11 ravaged corpse. So, too, like a deceased family member,
12 stories of what used to be are slowly being shared by
13 community members and employees like myself.

14 Each May the precinct hosted an annual open house
15 for school children to have a fun free lunch with McGruff.
16 Our mounted units stopped by and inner city kids who've
17 never petted a horse would line up for that. Youth would
18 then clutch their tickets to see who would win a free bike
19 that officers had secured for them.

20 There was a small community room in the front of
21 the building where many a court-ordered visitation between
22 parents and vulnerable children would safely meet.

23 The larger community room hosted many supportive
24 retirement parties with community members and MPD employees
25 at the end of their careers, some careers cut short due to

1 illness or cancer.

2 A little, free library greeted everyone at the
3 precinct's front door.

4 This was not just a building but an integral part
5 of our south side community. I say "our" for I live less
6 than two miles from the precinct. I drive by the old
7 precinct routinely as a south-sider.

8 I will never forget the night of mayhem, carnage,
9 and destruction as I watched in horror fixated on a live
10 feed online media program. There I saw in full view
11 jackals, dingoes, and street dogs desecrating the precinct
12 and trying to burn it to the ground. I shook and screamed
13 in my house, sobbing uncontrollably as my beloved precinct
14 was attacked. I use the words "jackals, dingoes and street
15 dogs" as I didn't recognize anyone being in human form as
16 they ran in and out of the building.

17 It has been a personal challenge to live with the
18 aftermath of the destruction of the Third Precinct. I
19 couldn't leave my house for two weeks last summer after this
20 incident and had a neighbor bring me groceries. I stay up
21 half the night with the lights on fearing that I would
22 somehow be attacked. The image of the burning building
23 still blazes in my mind's eye. All summer long I forced
24 myself to go to the farmer's market held nearby in an open
25 lot by the former precinct. Often I would just stand aside

1 weeping from the mindless destruction that took place.

2 I cannot fathom what kind of deranged minds could
3 conduct themselves in such a manner to blow up a public
4 service building. I hope the Sentencing Guidelines are
5 implemented by the Court.

6 From time to time I see some of my co-workers who
7 worked that night in threes. They look shell-shocked, like
8 soldiers from war movies. I see and can hear how their
9 disassociation impacts their lives, once vibrant people now
10 looking like zombies with pain seared on their faces as they
11 try to walk forward.

12 I'm grateful there wasn't any physical loss of
13 life of any of the MPD officers or civilians that night;
14 however, it's too soon to say what the long-term affects
15 will be on any of us who lived through that carnage.
16 Emotionally and psychologically it takes longer to heal from
17 attacks against our personhood than broken bones.

18 I trust that law and order will prevail. I pray
19 that justice is served. It will be a start, like a balm,
20 that helps those of us who live with the aftermath of the
21 destruction of the Third Precinct.

22 Thank you.

23 THE COURT: Thank you. Thank you.

24 Good morning, Ma'am. If you could just give us
25 your initials as well, please.

1 VICTIM WITNESS KL: Good morning. My initials are
2 KL.

3 THE COURT: All right. What would you like to say
4 this morning?

5 VICTIM WITNESS KL: Thank you. So often police
6 officers are not heard. I've been a police officer in the
7 State of Minnesota for 37 years, and this event pushed me to
8 retire.

9 I've never cared if anybody respected me as a
10 person. That was never why I was wearing the uniform. I
11 wore the uniform because it was a symbol and it was a symbol
12 that people needed to respect.

13 The building that we lost that day, my office was
14 on the second floor of that building. I went in the next
15 day and it was totally destroyed. My office was melted.
16 Everything I had in that office was gone. I took out when I
17 left what I could of personal belongings. But I'm not
18 telling you this because of things that I personally lost --
19 possessions -- but what the community lost and what we, as
20 police officers, lost. We lost something that was just
21 referred to as bricks and mortar, but it was more. It was
22 more to the community, and it was more to the officers that
23 worked there. That was home. That was my home.

24 The summer before that, at the open house, I took
25 my 84-year-old father through the precinct on a tour, and he

1 smiled at everybody that I introduced him to and told
2 everybody how proud he was that his daughter was there as a
3 police officer protecting Minnesota and Minneapolis.

4 It's been difficult in the months since this
5 happened. The days to follow I was in uniform every day.
6 Most days a short day would be 20 hours. We had to stand up
7 and protect the Fifth Precinct following the loss of our
8 home. And we had a lot of help, which was nice, because it
9 meant a lot to us as street officers to be able to stand
10 there side by side with state patrol, with our federal
11 partners.

12 And it meant the world to me to find out that
13 somebody cared enough about our building and our home that
14 they would investigate this crime, because this crime wasn't
15 just against the City of Minneapolis, it was against every
16 officer that called that home. It was against everybody in
17 the community around there.

18 I believe that what they did that night sent a
19 message to the world that it was okay to desecrate that type
20 of a building that meant and was a symbol of not only our
21 flag but everything that we call just in our democracy. And
22 I think that that was a symbol that went out, and it's been
23 tried all over now -- in Seattle, Portland, we're hearing
24 all over. That was the start of the civil unrest. And I
25 think by sentencing the way that you have been and the way

1 that I'm hoping you will it sends a message that it's not
2 right.

3 I appreciate that Mr. Wolfe is getting the help he
4 needs. He's the same age as my children. But what nobody
5 really cared about is that I am a mom. I'm a grandma. I'm
6 a wife. I'm a sister. I'm a daughter. And our building,
7 our home was taken from us.

8 I stood on the lines with officers in my gas mask
9 with my riot gear on. I had ice bottles pelted at me,
10 rocks. And I understand -- along with the over 200 officers
11 that also left our department -- we understand that we were
12 not supported the way we should've been. And this does send
13 a message. And I will be letting other officers know that
14 there is somebody that cares enough -- and the ATF, the
15 FBI and in the court systems -- about us and about what we
16 went through.

17 There's many of us that will probably never be the
18 same. We've been damaged. And we probably will always feel
19 like damaged goods. I hope to get my power back. And I
20 believe this is a step in that direction. And I want to
21 thank you for that, Your Honor.

22 THE COURT: All right. Thank you. Thanks for
23 coming in this morning.

24 Mr. Jacobs.

25 MR. JACOBS: If I may, Your Honor?

1 THE COURT: Yes. You are fully vaccinated?

2 MR. JACOBS: I am, Your Honor.

3 THE COURT: Okay.

4 MR. JACOBS: Your Honor is very well aware of the
5 context and the backdrop that this case transpired against,
6 and I won't reiterate or dwell on it, but I will start by
7 saying that the fact that the arsons in this case played out
8 against a backdrop of protests in Minneapolis is certainly
9 important. That the arson in this case was at the Third
10 Precinct of the Minneapolis Police Department is certainly
11 important. This is a backdrop against which this offense
12 took place. It provides context. But it's certainly not an
13 excuse for what happened, and it's certainly not an excuse
14 for Mr. Wolfe's conduct.

15 Your Honor, I'll start by providing a little bit
16 of context to some of the things that Mr. Olson said,
17 providing the government's point of view on a few of his
18 points. The first is to agree with Mr. Olson that to some
19 extent Mr. Wolfe's culpability is diminished by the
20 difficulties he's faced in his child, by his substance-abuse
21 issues, by his mental-health issues. By all accounts he had
22 a challenging childhood. It seems many times Mr. Wolfe was
23 forced to be the adult in the room and that was a situation
24 for which he was ill-equipped. His substance-abuse issues
25 and his mental-health challenges were certainly exacerbated

1 by that. Again, this is not an excuse or justification for
2 his actions, but it provides context for them.

3 The second point is to confirm something that
4 Mr. Olson said, which is that after Mr. Wolfe was arrested
5 he did meet with the government. He met with the government
6 multiple times. He met with the St. Paul Police Department.
7 He met with ATF. He met with FBI. And he did immediately
8 accept responsibility. He was open and honest in meeting
9 with the government. He did not minimize his conduct. And
10 that is separate and apart from an argument about his role
11 in the conduct, but he did not minimize the actual conduct.
12 I believe, in my estimation, that he was truthful and he was
13 honest. And he did immediately accept responsibility, and
14 to the government that means something and that counts for
15 something.

16 Finally the last point, Your Honor, is about
17 Mr. Wolfe's criminal history. To an extent Mr. Wolfe's
18 criminal history is concerning. This is his first felony
19 offense, but he does have some significant previous
20 convictions for domestic-abuse issues. That's different
21 than what we're standing up here talking about today -- an
22 arson at the Third Precinct -- but I think it's worth
23 mentioning. I think it's important to take that into
24 consideration as we think of this.

25 But, Your Honor, I also want to share a little bit

1 more context: the context of officers who were stationed in
2 the Third Precinct, the context of individuals who lived in
3 that area, context of residents of Minneapolis in general
4 who watched this play out back in May of 2020.

5 Your Honor, you just heard from a few individuals
6 who shared the impact of this crime. You've also read many
7 of the victim impact statements that other police officers
8 and community members and others have submitted to the
9 Court. And to those accounts I would only add that the
10 destruction of an active police precinct in the City of
11 Minneapolis was nearly unfathomable a year ago, but it did
12 happen, Your Honor.

13 I can provide some of my own context about the
14 destruction of the Third Precinct. I walked through the
15 precinct. I firsthand saw the damage. I can attest to
16 melted furniture, to destruction, to vandalism, to spray
17 paint, to 45 different areas of origin -- 45 separate fires
18 set in and around that building. And it was abundantly
19 clear walking through the Third Precinct that the rage and
20 the anger was directly thrust upon that building -- that
21 building as a symbol and that building as a structure. And
22 that in no way excuses the conduct of Mr. Wolfe or his
23 co-conspirators, but it does create an important
24 juxtaposition between the destruction and the damage to the
25 Third Precinct and destruction and damage to schools, post

1 offices, liquor stores, pawn shops throughout the Twin
2 Cities.

3 In contrast, Your Honor, to the vast destruction
4 that we saw unfold in the Twin Cities, you have the specific
5 actions that Mr. Wolfe took that night. And I think it's
6 important to note that Mr. Wolfe's specific conduct did play
7 a seemingly small role in the overall destruction. He
8 pushed a barrel into a fire outside the precinct. That fire
9 was already burning. He knew it would engulf the fire and
10 make the fire bigger, it would accelerate the fire.

11 In the government's estimation, he had a
12 below-average involvement compared to his co-conspirators --
13 both indicted and unindicted. And to an extent the
14 government understands his arguments that he played a small
15 role in the destruction of the Third Precinct. But, Your
16 Honor, as I said before, there is no small role when it
17 comes to the destruction of an active police precinct.
18 There's no small role when it comes to someone lighting or
19 accelerating or making bigger a fire at the entrance to a
20 building with an unknown number of people inside that
21 building.

22 To that argument I also respond that there's no
23 small role when it comes to the negative effect and the
24 damage to the movement that Mr. Wolfe and others were
25 purporting to be supporting when they were down there, the

1 detrimental effect caused by the actions of a very small
2 number of people who went from peaceful protest and crossed
3 the threshold to damage, violence, destruction, and arson.

4 I'd also note that Mr. Wolfe following the
5 incident with the barrel went into the building, went in,
6 took multiple pieces of police equipment that he was
7 actually wearing at the time he was arrested.

8 And finally, Your Honor, I would note that
9 Mr. Wolfe pled guilty to conspiracy to commit arson and with
10 that he takes responsibility for the actions of his
11 co-conspirators. And Mr. Wolfe may rightly view it unfair
12 or lack of proportionality to say that he's being held
13 responsible for actions of multiple people who set 45 fires
14 throughout the precinct. And to that, Your Honor, we
15 respond that that's precisely why a significant sentence is
16 required here, to send a message that the conduct here is
17 unacceptable and that doing so will incur substantial
18 penalty.

19 And, Your Honor, I'd end with one final point,
20 which is that the government was thoughtful in its charging
21 decision as to Mr. Wolfe charging a 371 conspiracy. For
22 many of the reasons I've reiterated today and Mr. Olson
23 reiterated today, that we both include in our sentencing
24 positions -- about Mr. Wolfe's background, about the
25 culpability of many versus the culpability of some -- that

1 decision to charge a 371 conspiracy took those things into
2 account. And for that reason, Your Honor, we'd request that
3 the Court impose a sentence of 42 months' imprisonment.

4 THE COURT: Thank you, Mr. Jacobs.

5 I have carefully reviewed the Presentence
6 Investigation Report and the addendum to the report. I have
7 also read the many victim-impact statements that were
8 incorporated into the report, as well as the letters
9 submitted by and on behalf of Mr. Wolfe. I now accept the
10 plea agreement, and I am prepared to impose the sentence.

11 It is the judgment of the Court that you, Branden
12 Michael Wolfe, are sentenced to prison for a term of 41
13 months to be served consecutively to any sentence you
14 receive in connection with the criminal charges that are now
15 pending against you in Hennepin County District Court, Case
16 No. 27-cr-20-13156.

17 No fine is imposed.

18 You are ordered to pay restitution in the total
19 amount of \$12 million. You are jointly and severally liable
20 for this amount with Dylan Shakespeare Robinson, and your
21 other co-defendants -- Davon De-Andre Turner and Bryce
22 Michael Williams -- will likely be held jointly and
23 severally liable for this amount as well. This amount is
24 due and payable immediately. The interest requirement is
25 waived.

1 While you are incarcerated, you must make payments
2 toward your restitution obligation as follows: If you are
3 working UNICOR, you must make monthly payments of 50 percent
4 of your earnings. If you are not working UNICOR, you must
5 make quarterly payments of \$25.

6 After you are released from prison, you must begin
7 making payments toward any remaining restitution obligation
8 within 30 days of your release. You must make monthly
9 payments of at least \$100. If the probation officer
10 determines that you are able to pay more than \$100 per
11 month, then you must make restitution payments in the amount
12 directed by the probation officer.

13 Your payments should be made to the Clerk of the
14 United States District Court for the District of Minnesota,
15 who will forward your payments to the City of Minneapolis.

16 Your obligation to pay the full amount of
17 restitution continues even after your term of supervised
18 release ends. If you are not able to pay the full amount of
19 restitution at the time your supervised release ends, you
20 may work with the United States Attorney's Office Financial
21 Litigation Unit to arrange a restitution payment plan.

22 You must pay a special assessment in the amount of
23 \$100 to the United States, due immediately.

24 On being released from prison, you will be placed
25 on supervised release for a term of two years. While you

1 are on supervised release, you must comply with the
2 following conditions:

3 First, you must comply with the mandatory and
4 standard conditions of supervised release described in
5 Section 5D1.3 of the version of the United States Sentencing
6 Guidelines that took effect on November 1st, 2018.

7 Second, you must participate in a program for
8 substance abuse as directed by the probation officer. The
9 program may include testing and inpatient or outpatient
10 treatment, counseling or a support group. You must
11 contribute to the costs of such treatment as determined by
12 the Probation Office Co-Payment Program.

13 Third, you must not use alcohol or other
14 intoxicants, whether legal or illegal, and you must not
15 enter bars, liquor stores or other establishments whose
16 primary business is the sale of alcoholic beverages.

17 Fourth, you must participate in a psychological or
18 psychiatric counseling or treatment program as directed by
19 the probation officer. You must contribute to the costs of
20 such treatment as determined by the Probation Office
21 Co-Payment Program.

22 Fifth, you must participate in educational
23 programming, as directed by the probation officer, to obtain
24 a high school diploma or a general equivalency diploma.

25 Sixth, you must promptly notify the probation

1 officer of any material change in your financial
2 circumstances that might affect your ability to pay
3 restitution.

4 And, finally, seventh, if you do not maintain
5 full-time, lawful employment as deemed appropriate by the
6 probation officer, you may be required to do
7 community-service work for up to 20 hours per week until you
8 become employed. You may also be required to participate in
9 training, counseling or daily job searching as directed by
10 the probation officer.

11 I direct that the Probation Office furnish to you
12 a written statement of all the conditions of your supervised
13 release.

14 As you requested, I will recommend that you be
15 designated to a facility in or near Minnesota.

16 Mr. Olson, do you think I should also add an RDAP
17 recommendation?

18 MR. OLSON: Yes, Your Honor.

19 THE COURT: All right. I will also add that you
20 be allowed to participate in the RDAP program.

21 In determining what sentence to impose, I have
22 treated the range recommended by the United States
23 Sentencing Guidelines as the starting point and the initial
24 benchmark as *Gall v. United States* requires. I have not,
25 however, presumed that the Guidelines range is reasonable.

1 I have instead carefully considered all of the factors
2 described in 18 U.S.C. Section 3553(a), including the need
3 for the sentence to be sufficient, but not greater than
4 necessary, to comply with the purposes set forth in Section
5 3553(a) (2).

6 As to the sentence of imprisonment, I've sentenced
7 Mr. Wolfe to 41 months in prison, which is the bottom of the
8 range recommended by the United States Sentencing
9 Guidelines.

10 On the evening of May 28th of 2020 -- an evening
11 on which many thousands of people across the country were
12 protesting the murder of George Floyd while also heeding the
13 pleas of the Floyd family to remain peaceful -- Mr. Wolfe
14 decided to protest police brutality by committing a crime
15 (really, by committing a series of crimes). Specifically,
16 Mr. Wolfe decided to join a mob that attacked, looted, and
17 destroyed the Third Precinct headquarters.

18 At the time that Mr. Wolfe was feeding a fire near
19 the entrance to the Third Precinct, he had no idea how many
20 people were in that building, where they were located,
21 whether they were impaired or unimpaired or conscious or
22 unconscious or whether they might be trapped and burned
23 alive by the fire that he was feeding.

24 Nor does it appear that Mr. Wolfe gave a moment's
25 thought to the extraordinary harm he was helping to inflict

1 on the people who worked in that building. The Third
2 Precinct was home not just to the four former police
3 officers charged with crimes in connection with the murder
4 of George Floyd, but to many people who had absolutely
5 nothing whatsoever to do with that murder. The Third
6 Precinct was home to dozens of good police officers --
7 police officers who came to work every day and risked their
8 lives to keep their fellow citizens safe. The Third
9 Precinct was also home to many City employees who were not
10 police officers or even involved in law enforcement. The
11 actions of Mr. Wolfe and the mob that he joined took away
12 what was for many of these people a second home -- one of
13 the few places where they could feel safe, and a place where
14 they could gather with each other and members of the
15 surrounding community.

16 Mr. Wolfe also appears to have given no thought to
17 how his actions would affect the people served and protected
18 by the Third Precinct. The Third Precinct is an area where
19 many good, hard working, law-abiding people live, work,
20 start businesses, and raise families. Many of those who
21 live in the Third Precinct immigrated to the United States
22 in order to flee violence and lawlessness in their home
23 countries. The actions of Mr. Wolfe and his co-conspirators
24 terrorized these people; to this day, they feel unsafe in
25 their own homes and neighborhoods. Crime has increased

1 dramatically in the Third Precinct, and its residents have
2 borne the brunt of that crime. I recognize that crimes
3 increase for many reasons, but the fact that there are fewer
4 police officers and the fact that the remaining police
5 officers are stationed far away from the Third Precinct --
6 both of which are the direct result of the destruction of
7 the Third Precinct headquarters -- certainly does not help.

8 Mr. Wolfe's actions in helping to burn the Third
9 Precinct are extremely serious in themselves. But he did
10 not just help to burn the Third Precinct; he also helped to
11 loot it. Mr. Wolfe went into the building at least twice to
12 steal police property for himself, including a police vest,
13 duty belt, set of handcuffs, ear piece, baton, knife, riot
14 helmet, pistol magazine, police radio, police overdose kit,
15 uniform name plates, and ammunition. Until he was arrested,
16 Mr. Wolfe showed zero shame or remorse about his role in
17 burning and looting the Third Precinct. To the contrary, he
18 posted on social media about stealing items from the
19 building, and, when he was arrested almost a week after the
20 Third Precinct was destroyed, he was wearing the stolen
21 police vest (on which he'd affixed his own name) and stolen
22 duty belt, and he was carrying the stolen tactical baton.

23 And, finally, although Mr. Wolfe has just two
24 misdemeanor convictions, he has twice been charged with
25 felony battery and once with felony kidnapping in connection

1 with alleged assaults on his pregnant girlfriend. Those
2 cases were not prosecuted because, as so often happens in
3 domestic-violence cases, the alleged victim later refused to
4 cooperate with the prosecution. I'm not assuming that the
5 allegations against Mr. Wolfe are true, but the fact that he
6 was charged is troubling, especially given that his two
7 misdemeanor convictions also arise out of conflicts with the
8 same girlfriend.

9 Mr. Wolfe argues that, despite the seriousness of
10 his crime and the extraordinary harm that he helped to
11 cause, he should be put on probation. But Mr. Wolfe is
12 already on probation; in fact, he was on probation at the
13 time that he helped burn down and loot the Third Precinct.
14 Moreover, after being indicted in this case, Mr. Wolfe was
15 placed on pretrial supervision. Needless to say, Mr. Wolfe
16 should have been on his very best behavior. He was not.
17 Instead, Mr. Wolfe committed more than 20 major and minor
18 violations of the rules of the halfway house at which he was
19 living. Even after being hailed before Magistrate Judge
20 Menendez and being explicitly warned both by her and his
21 probation officer that he has to follow the conditions of
22 his presentence release, which includes obeying the rules of
23 the halfway house, Mr. Wolfe has continued to violate the
24 rules of the halfway house as recently as yesterday. A term
25 of probation would not reflect the seriousness of

1 Mr. Wolfe's offense, promote respect for the law or deter
2 others from committing similar crimes in the future. But I
3 also have little confidence that Mr. Wolfe would follow the
4 conditions of his probation.

5 Given the severity of Mr. Wolfe's crime and the
6 need to deter similar crimes in the future, I considered
7 giving Mr. Wolfe a 60-month sentence, which would have been
8 the statutory maximum because of the decision of the
9 government to charge Mr. Wolfe only with conspiracy rather
10 than with arson. I decided not to impose a longer sentence
11 for several reasons:

12 First, although Mr. Wolfe was involved in an awful
13 crime, he played a very small role in that crime. As far as
14 the record reflects, his participation in the burning of the
15 Third Precinct was limited to pushing a wooden barrel into
16 an already existing fire at a time when the building was
17 already burning. Mr. Wolfe did not himself start or try to
18 start any fire.

19 Second, Mr. Wolfe suffers from significant mental
20 illness and chemical dependency. He had a difficult
21 childhood. He was home-schooled after the fifth grade and
22 kicked out of his home at age 18. He then became a homeless
23 drifter. He used marijuana on a daily basis and frequently
24 abused alcohol. After he was arrested in this case, he was
25 diagnosed with bipolar disorder. He says that, on the

1 evening that he helped to burn and loot the Third Precinct,
2 he was impaired by drugs and alcohol and experiencing a
3 manic episode. Since his arrest, despite his other
4 problems, Mr. Wolfe has remained sober, he has taken his
5 medications, and he has been very invested in his therapy
6 sessions.

7 And finally, Mr. Wolfe is a very young man who has
8 never spent more than a few days in jail. A term of 41
9 months in prison is by far the longest sentence that
10 Mr. Wolfe has ever received from any court. I hope that
11 this sentence will serve as a wake-up call and that, helped
12 by the treatment and medication that he will continue to
13 receive, Mr. Wolfe will be able to turn his life around.

14 For all these reasons, I find that a sentence of
15 41 months is sufficient but not greater than necessary to
16 accomplish the goals of Section 3553(a).

17 As to the term of supervised release, I have
18 imposed a two-year term of supervised release along with
19 conditions to help ensure that Mr. Wolfe continues to get
20 help for his mental illness and chemical dependency, and to
21 make sure that he makes progress in paying restitution.

22 And finally, I have not imposed a fine because
23 Mr. Wolfe cannot afford to pay a fine and because I want him
24 to devote any available funds to paying restitution.

25 All right. Mr. Wolfe, you have the right to

1 appeal your conviction if you believe that your guilty plea
2 was unlawful or invalid for any reason.

3 Usually defendants have the right to appeal their
4 sentence, but you entered into a plea agreement with the
5 government, and in that plea agreement you gave up your
6 right to appeal a sentence of the length I've just imposed.
7 Courts usually enforce those agreements, but, if you think
8 that, notwithstanding your plea agreement, you still have
9 the right to appeal your sentence, you can go ahead and
10 appeal your sentence and you can make your argument to the
11 court of appeals.

12 If you do want to appeal your conviction or your
13 sentence or both, you have to file a notice of appeal, and
14 you have to do so within 14 days after I enter the judgment
15 in your case, which will be later today. You can ask
16 Mr. Olson to file an appeal for you or you can ask the Clerk
17 of Court to file a notice of appeal on your behalf.

18 If you cannot afford to pay the costs of an
19 appeal, you can ask for permission to be excused from paying
20 those costs.

21 The Presentence Investigation Report will be kept
22 in the Court's files under seal. If an appeal is filed,
23 that report will be delivered to the Court of Appeals.

24 All right. The last thing to address is release
25 status. So, Mr. Olson, let me talk to you about this. I'm

1 concerned about letting Mr. Wolfe remain free. I'm
2 concerned because he does not have deep ties to this area.
3 He has no family here. He has a girlfriend here, and I
4 think that's the extent of his ties.

5 I'm also concerned about the just endless series
6 of violations of the rules, including yesterday. I mean, it
7 says a lot to me when someone the day before he shows up for
8 sentencing is still violating the rules of the halfway house
9 despite being warned by a federal magistrate judge about
10 what the likely consequences of that would be. So I have to
11 tell you I'm nervous about the idea of letting him remain
12 free.

13 MR. OLSON: Your Honor, I'd ask that the Court
14 give him a benefit of a brief period and then voluntarily
15 surrender to the Marshal's Office. There's a couple --
16 there are some practicalities involved here, including the
17 simple process of cleaning out his place at the halfway
18 house, which would be of assistance to them, as well as the
19 detrimental effect the lack of voluntary surrender has for
20 his security classification, which will impact actually the
21 entire 42-month sentence -- 41-month sentence that he has to
22 do.

23 You know, his -- I talked to him about this stuff
24 and I'll just say that he really is trying, but he doesn't
25 succeed and he does stuff that he shouldn't, and he doesn't

1 do things necessarily as responsible as the rest of us. I
2 don't think he'd want me to use his mental illness as an
3 excuse, but he really does mean well and he is trying.

4 So if the Court would give him a brief period to
5 finish up at the halfway house and report to the Marshal's
6 Office, he'd really appreciate it.

7 THE COURT: Does he get credit for self-surrender
8 even if it's just a 24-hour period or something like that?

9 MR. OLSON: Yeah, I have had judges order people
10 to self-surrender to the marshals after court and then you
11 get self-surrender. The period doesn't matter. But if
12 you're in custody, it's a significant hit on you in terms of
13 your security classification.

14 So even 24 hours voluntary surrender does him a
15 world of good. And it really does impact both your
16 placement and then how -- which then impacts the quality of
17 what you do while you're incarcerated. So even having him
18 report this afternoon would be fine, but that alone is a big
19 thing.

20 You know, the rules violation, it's irritating to
21 everybody. It's irritating to me. I mean, I understand
22 that. It's not like he's an entire scofflaw. He just has a
23 hard time sometimes getting up out of bed and doing things
24 like the rest of the world. It's hard sometimes.

25 THE COURT: I mean, these poor people who work at

1 these halfway houses are in the middle of the pandemic going
2 to work everyday and working with guys who -- I mean,
3 they're doing it so these guys have some place other than
4 jail.

5 MR. OLSON: I'm with you.

6 THE COURT: They get thanked for it by disrespect,
7 by insults, by refusals to obey just simple commands. You
8 know, I have a responsibility to those people as well.

9 MR. OLSON: Yeah, well, I'm with you. So I'm not
10 asking that it be a lengthy stay but give him a short period
11 of time to get his stuff together and then report to the
12 Marshal's Office, but don't make it immediate. So don't
13 take him into custody right away.

14 THE COURT: Okay. Mr. Jacobs, let me hear what
15 your thoughts are on this.

16 MR. JACOBS: Your Honor, briefly, we share the
17 Court's concern about Mr. Wolfe's challenges with abiding by
18 supervision. But I think in the interest of allowing
19 Mr. Wolfe to work on his mental-health challenges and
20 substance-abuse issues, we have no objection or issue with a
21 short period of turn-around for self-surrender.

22 THE COURT: Okay. I don't want to give him more
23 than a short period. So what I'll do is have him report
24 tomorrow, Mr. Olson, which will give him self-surrender.

25 MR. OLSON: Should he report to the Marshal's

1 Office here in this building?

2 THE COURT: Yes.

3 So, Mr. Wolfe, I'm going to order you to report
4 tomorrow morning at 10:00 a.m. to the United States
5 Marshal's Service here in this courthouse. You can talk to
6 Mr. Olson about what that involves.

7 I'm taking a chance on you. If it was not for
8 what I just heard from your counsel, my inclination would be
9 to have the marshals take you right now. But by giving you
10 a chance to self-surrender, it's going to help you a lot as
11 you serve in prison. You're going to get more programming.
12 You're going to get a better facility. So I'm taking a
13 chance on you. I need you to give me your word you're going
14 to show up tomorrow morning at 10:00. Will you do that?

15 THE DEFENDANT: Yes, sir, Your Honor.

16 THE COURT: Okay. So you should report to the
17 United States Marshal here at 10:00 tomorrow morning, then.
18 Okay?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: All right. Mr. Olson, anything else?

21 MR. OLSON: My objection on the restitution
22 order --

23 THE COURT: Is noted and preserved.

24 MR. OLSON: -- is noted and preserved.

25 THE COURT: Yes. That is noted, and your

1 objection is preserved.

2 Anything else, Mr. Jacobs?

3 MR. JACOBS: No, Your Honor.

4 THE COURT: Okay. Thank you.

5 THE COURTROOM DEPUTY: All rise.

6 (Court adjourned at 10:16 a.m.)

7 * * *

8 I, Debra Beauvais, certify that the foregoing is a
9 correct transcript from the record of proceedings in the
10 above-entitled matter.

11 Certified by: s/Debra Beauvais
12 Debra Beauvais, RPR-CRR
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